IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1016 of 1984
With
FIRST APPEAL No. 1161 of 1984
With
FIRST APPEAL No. 1232 of 1984

For Approval and Signature:
HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Appellant(s)
Versus
VASANTIBEN WD/O.VASANTLAL BHIMRAO MISTRY & 4 - Defendant(s)

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Appearance :
MS MAYA DESAI for Appellant(s) : 1,
NOTICE SERVED for Defendant(s) : 1, 3, 5,
None for Defendant(s) : 2,
MR SB VAKIL for Defendant(s) : 4,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 24/07/2007

ORAL JUDGMENT

1. Gujarat State Road Transport Corporation, being aggrieved by the Award dtd.29/11/1983 made in Motor

Accident Claim Petition Nos.513 and 585 of 1981, have filed First Appeal Nos.1016 and 1161 of 1984. Raginaben Joseph Chauhan has filed First Appeal No.1232 of 1984 for enhancement. A common award was made on 29/11/1983 by the learned Motor Accident Claim Tribunal (Auxiliary), Surat in Motor Accident Claim Petition Nos.510, 511, 513 and 585 of 1981.

2. Short facts necessary for disposal of the present appeals are that while Vasantlal, Vasantiben and Anilkumar were going on a motor cycle, a bus taking a turn, dashed against them, which led to the death of Vasantlal and injuries to Vasantiben and minor Anilkumar.

3. Different claim petitions were filed by Vasantiben, firstly, in her personal capacity and, secondly, as dependent of deceased Vasantlal. Anilkumar filed claim petition for injuries suffered by him, while Raginaben Joseph Chauhan filed claim petition on the ground that she was legally wedded wife of Vasantlal and was entitled to the compensation.

4. The defence of the driver of the Bus was that neither he was rash nor he was negligent, but, in fact, after he had

taken a turn in a narrow lane, the driver of the motor cycle dashed against him, which led to the death of the driver of the motor cycle and injuries to the other persons. He submitted that the motor cyclist was a new driver, he could not apply breaks properly and instead of applying break, he accelerated the speed, which led to his death.

5. The learned tribunal, after recording evidence of the parties, held that, in fact, the driver of the Bus was absolutely negligent. The tribunal had given cogent reasons for holding that the driver of the Bus was negligent. After going through the evidence recorded by the learned tribunal and statement of Vasantiben, wherein she had stated that Vasantlal was driving the vehicle cautiously, at a very slow speed, on the left side of the road and at that time, the Bus came at an excessive speed and dashed the motor cycle, I find no difficulty in holding that the driver of the Bus was rash and negligent. I, being in general agreement with the findings recorded by the learned tribunal, confirm the same.

6. So far as three appeals on merits are concerned, the

same can be disposed of simultaneously. The learned tribunal, on the strength of the evidence, has found that the income of the deceased could be Rs.10,000=00 per year, out of the said amount, it has held that Raginaben Joseph Chauhan would be entitled to Rs.2400=00 per year and minor dependent Anilkumar would be entitled to Rs.3600=00 per year. The tribunal, after holding that Vasantiben was not legally wedded wife of Vasantlal, therefore, she would not be entitled to compensation, held that the entitlement of the claimants would be in accordance with the findings recorded by the said tribunal.

7. Vasantiben has not challenged the findings wherein, it has been held that she would not be entitled to any amount. Under the circumstances, this Court will have to accept the fact that Raginaben Joseph Chauhan was legally wedded wife of deceased Vasantlal.

8. So far as the assessment of the income and dependency factors are concerned, this Court must hold that the tribunal was not unjustified in awarding Rs.200=00 per month or Rs.2400=00 per year to Raginaben Joseph Chauhan in view of the fact that the deceased had

already left her and was comfortably living with Vasantiben and son Anilkumar. I am also unable to hold that the tribunal was unjustified in assessing dependency of Anilkumar at Rs.300=00 per month. The tribunal was certainly justified in applying multiplier of 16. The amount of Rs.5000=00, probably, has been awarded towards expectations and enjoyment of the life, therefore, that amount appears to be reasonable.

9. Taking into consideration the totality of the circumstances and the evidence available on the records, I am unable to hold that the tribunal was unjustified in holding the driver of the Bus guilty or erred in holding that the income of the deceased could be Rs.1000=00 per year.

10. I find no reason to interfere. All the appeals deserve to and are accordingly dismissed. Interim relief, if any, is vacated. No costs.

(R.S. GARG, J.)

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